

Superseded 5/12/2015

49-22-303 Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

- (1)
- (a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:
 - (i) is sponsored by the board; and
 - (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
 - (b) The member may make voluntary deferrals to:
 - (i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or
 - (ii) at the member's option, another defined contribution plan established by the participating employer.
- (2)
- (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.
 - (b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.
- (3)
- (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).
 - (b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).
 - (c) A member may direct the investment of contributions made by the member under Subsection (1)(b).
- (4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).
- (5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).
- (6)
- (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.
 - (b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:
 - (i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon employment as a regular full-time employee; and

- (ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).
- (c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.
- (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.
- (8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.